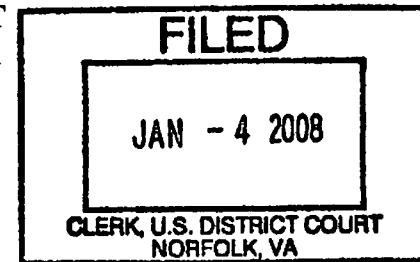


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DANIEL R. BURGESS,

Plaintiff,

v.

ACTION NO. 2:07cv201

MEDICAL DEPARTMENT,
MR. L. BARLOW,
Superintendent,
DR. TONEY,
MR. CHAFFER,
Head Nurse,
MRS. BEVINS, Nurse,
MRS. BURTON, Nurse,
MRS. SCOTT, Nurse, and
MRS. WISE, Nurse,¹

Defendants.

DISMISSAL ORDER

Plaintiff, a Virginia inmate, brings this pro se action pursuant to 42 U.S.C. § 1983 to redress an alleged violation of his constitutional rights. By order filed October 2, 2007, plaintiff was ordered to submit one (1) copy of each amendment to the complaint, or the requisite copying costs, within thirty (30) days of that order. Plaintiff subsequently moved for an extension of time to comply. By order filed November 19, 2007, the court granted plaintiff a thirty-day extension of time. Plaintiff was advised that failure to comply with the court's October 2, 2007 order would result in the dismissal of this action.

¹By order filed October 2, 2007, the Medical Department, Dr. Toney, Mr. Chaffer, Mrs. Burton, Mrs. Scott, Mrs. Bevins and Mrs. Wise were dismissed as defendants to this action.

The thirty-day time period has elapsed and plaintiff has neither submitted the copies or the copying costs. Accordingly, it is **ORDERED** that this action be **DISMISSED** without prejudice to plaintiff's right to resubmit the complaint in a new action.² Plaintiff is cautioned, however, that the statute of limitations will continue to run.

Plaintiff may appeal from this Dismissal Order by forwarding a written notice of appeal to the Clerk of the United States District Court, U.S. Courthouse, 600 Granby Street, Norfolk, Virginia 23510. Said written notice must be received by the Clerk within thirty (30) days from the date of this Dismissal Order. If plaintiff wishes to proceed in forma pauperis on appeal, the application to proceed in forma pauperis is to be submitted to the Clerk, United States Court of Appeals, Fourth Circuit, 1100 E. Main Street, Richmond, Virginia 23219.

The Clerk is **DIRECTED** to send a copy of this Dismissal Order to plaintiff.

IT IS SO ORDERED.



JBF
/s/
Jerome B. Friedman
United States District Judge

Norfolk, Virginia

January 4, 2008

²Since this is a procedural dismissal without prejudice, the four-factor test enunciated in Doyle v. Murray, 938 F.2d 33, 34 (4th Cir. 1991), is inapplicable. The dismissal in Doyle was with prejudice pursuant to Federal Rule of Civil Procedure 41(b), which "operates as an adjudication on the merits." Such is not the case here.